

REMARKS**INTRODUCTION:**

In accordance with the foregoing, claims 8 and 20 have been canceled without prejudice or disclaimer, and claims 1, 4, 13, 16, 25 and 28 have been amended. No new matter is being presented, and approval and entry are respectfully requested.

Claims 1-7, 9-19, and 21-30 are pending and under consideration. Reconsideration is respectfully requested.

OBJECTION TO THE TITLE:

In the Office Action, at page 2, numbered paragraph 1, the title was objected to as not being descriptive. In view of the proposed amended title set forth above, the outstanding objection to the title should be resolved.

REJECTION UNDER 35 U.S.C. §102:

A. In the Office Action, at page 2, numbered paragraph 4, claims 1, 13, 25 and 30 were rejected under 35 U.S.C. §102(a) as being anticipated by LG Electronics Inc. (KR 2003 23056). This rejection is traversed and reconsideration is requested.

Although KR 2003-23056 was first published on March 19, 2003 and the instant application was filed in the United States on September 29, 2003, the date of invention in the instant invention is at least January 27, 2003, which is the foreign priority date based upon the prior filing of the foreign counterpart to the instant application in the Korean Intellectual Property Office. A copy of the foreign counterpart was previously filed, is acknowledged by the Examiner on page 1 of the Office Action.

Further, enclosed is an English translation of Korean Application No. 2003-5182, along with a corresponding statement from the translator in compliance with 37 CFR 1.55(a)(4). As such, it is respectfully submitted that the applicants have established a date of invention of at least January 27, 2003. MPEP 210.15. Since this date of invention is prior to the publication of KR 2003-23056 on March 19, 2003, KR 2003-23056 does not qualify as prior art under 35 U.S.C. 102(a) as it was not "described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent." Therefore, it is respectfully requested that the Examiner reconsider and withdraw the rejection of claims 1, 13, 25 and 30 under 35 U.S.C. §102(a) in view of KR 2003-23056.

B. In the Office Action, at page 3, numbered paragraph 5, claims 1, 2, 4, 13, 14, 16, 25, 26, 28 and 30 were rejected under 35 U.S.C. §102(b) as being anticipated by Ikeda (JP 62-297634). This rejection is traversed and reconsideration is requested.

Independent claim 1 has been amended to include the features of claim 8. Claim 8 has been cancelled without prejudice or disclaimer. Claims 13 and 25 have been amended in similar fashion.

It is respectfully submitted that Ikeda (JP 62-297634) does not teach or suggest the features of amended claim 1, (see above), which are recited in similar fashion in amended claims 13 and 25. In particular, Ikeda fails to teach two fans -a ventilating fan that ventilates the toasting cavity and a cooling fan that cools a high-voltage transformer and a high-voltage condenser, as is recited in the amended independent claims 1, 13 and 25 of the present invention.

Thus, amended independent claims 1, 13 and 25 are submitted not to be anticipated by Ikeda (JP 62-297634). Since claim 30 depends from amended claim 25, claim 30 is submitted not to be anticipated by Ikeda (JP 62-297634) for at least the reasons that amended claim 25 is submitted not to be anticipated by Ikeda (JP 62-297634).

REJECTION UNDER 35 U.S.C. §103:

A. In the Office Action, at pages 3-4, numbered paragraph 7, claims 1-4, 6-9, 13-16, 18-21, 25-28 and 30 were rejected under 35 U.S.C. §103(a) as being obvious over Hishiyama (JP 1-305231) or Morii (JP 64-38524), in view of LG Electronics Inc. (KR 2003-23056) or Ikeda (JP 62-297634). The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

As noted in the response to "A" under the Rejection Under 35 U.S.C. §102 above, it is respectfully submitted that LG Electronics Inc. (KR 2003-23056) does not qualify as prior art based upon the prior filing of the foreign counterpart to the instant application in the Korean Intellectual Property Office.

Independent claim 1 has been amended to include the features of claim 8. Claim 8 has been cancelled without prejudice or disclaimer. Claims 13 and 25 have been amended in similar fashion.

It is respectfully submitted that none of Hishiyama (JP 1-305231), Morii (JP 64-38524), or Ikeda (JP 62-297634), alone or in combination, teaches or suggest the features of claim 8, i.e.,

wherein a high-voltage transformer and a high-voltage condenser installed in the machine room apply a high voltage to the microwave generating unit, and a cooling fan installed in the machine room cools the high-voltage transformer and the high-voltage condenser. There is no recitation in any of Hishiyama (JP 1-305231), Morii (JP 64-38524), or Ikeda (JP 62-297634), alone or in combination, that mentions or indicates the use of a high-voltage transformer and a high-voltage condenser in the machine room to apply a high voltage to the microwave generating unit, as is recited in amended independent claims 1, 13 and 25. In addition, **none** of Hishiyama (JP 1-305231), Morii (JP 64-38524), or Ikeda (JP 62-297634), alone or in combination, teaches or suggests the use of two fans, i.e., a ventilating fan to ventilate the toasting cavity and a cooling fan to cool the high-voltage transformer and the high-voltage condenser, as is recited by the present claimed invention in amended claims 1, 13 and 25.

Thus, amended claims 1, 13 and 25 are submitted to be patentable under 35 U.S.C. §103(a) over Hishiyama (JP 1-305231), Morii (JP 64-38524), or Ikeda (JP 62-297634), alone or in combination. Since claims 2-4, 6-7, 9, 14-16, 18-21, 26-28 and 30 depend, directly or indirectly, from amended claims 1, 13 and 25, respectively, claims 2-4, 6-7, 9, 14-16, 18-21, 26-28 and 30 are submitted to be patentable under 35 U.S.C. §103(a) over Hishiyama (JP 1-305231), Morii (JP 64-38524), or Ikeda (JP 62-297634), alone or in combination, for at least the reasons that amended claims 1, 13 and 25 are submitted to be patentable under 35 U.S.C. §103(a) over Hishiyama (JP 1-305231), Morii (JP 64-38524), or Ikeda (JP 62-297634), alone or in combination.

Also, there is no teaching or suggestion of combining any of Hishiyama (JP 1-305231), Morii (JP 64-38524), or Ikeda (JP 62-297634). It is respectfully submitted that the courts have held that the Examiner may not suggest modifying references using the present invention as a template absent a suggestion of the desirability of the modification in the prior art. *In re Fitch*, 23 U.S.P.Q.2d 1780, Fed Cir. 1992. Something in the prior art as a whole must suggest the desirability, and thus, the obviousness, of making the combination. *Alco Standard Corp. v. Tennessee Valley Authority*, 808 F. 2d 1490, 1 U.S.P.Q. 2d 1337 (Fed. Cir. 1986). When a rejection depends on a combination of prior art references, there must be some teaching, suggestion or motivation to combine the references. *In re Geiger*, 815 F.2d 686, 688 2 U.S.P.Q.2d 1276, 1278 (Fed. Cir. 1987). Thus, since there is no teaching or suggestion of combining any of Hishiyama (JP 1-305231), Morii (JP 64-38524), or Ikeda (JP 62-297634) in any combination, it is respectfully submitted that claims 1-4, 6-9, 13-16, 18-21, 25-28 and 30 are patentable under 35 U.S.C. §103(a) over Hishiyama (JP 1-305231), Morii (JP 64-38524), or Ikeda (JP 62-297634), alone or in combination.

B. In the Office Action, at page 5, numbered paragraph 8, claims 5, 10-12, 17, 22-24, and 29 were rejected under 35 U.S.C. §103(a) as being unpatentable over Hishiyama (JP 1-305231) or Morii (JP 64-38524), or Ikeda (JP 62-297634) as applied to claims 1-4, 6-9, 13-16, 18-21, 25-28 and 30 above, and further in view of Nitta (JP 55-110835) or Yoshikawa (JP 4-148115). The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

As noted in the response to “A” under the Rejection Under 35 U.S.C. §102 above, it is respectfully submitted that LG Electronics Inc. (KR 2003-23056) does not qualify as prior art based upon the prior filing of the foreign counterpart to the instant application in the Korean Intellectual Property Office.

Independent claim 1 has been amended to include the features of claim 8. Claim 8 has been cancelled without prejudice or disclaimer. Claims 13 and 25 have been amended in similar fashion.

It is respectfully submitted that none of Hishiyama (JP 1-305231), Morii (JP 64-38524), Ikeda (JP 62-297634), Nitta (JP 55-110835) or Yoshikawa (JP 4-148115), alone or in combination, teaches or suggest the features of claim 8, i.e., wherein a high-voltage transformer and a high-voltage condenser installed in the machine room apply a high voltage to the microwave generating unit, and a cooling fan installed in the machine room cools the high-voltage transformer and the high-voltage condenser. There is no recitation in any of Hishiyama (JP 1-305231), Morii (JP 64-38524), Ikeda (JP 62-297634), Nitta (JP 55-110835) or Yoshikawa (JP 4-148115), alone or in combination, that mentions or indicates the use of a high-voltage transformer and a high-voltage condenser in the machine room to apply a high voltage to the microwave generating unit, as is recited in amended independent claims 1, 13 and 25. In addition, **none** of Hishiyama (JP 1-305231), Morii (JP 64-38524), Ikeda (JP 62-297634), Nitta (JP 55-110835) or Yoshikawa (JP 4-148115), alone or in combination, teaches or suggests the use of two fans, i.e., a ventilating fan to ventilate the toasting cavity and a cooling fan to cool the high-voltage transformer and the high-voltage condenser, as is recited by the present claimed invention in amended claims 1, 13 and 25.

Thus, amended claims 1, 13 and 25 are submitted to be patentable under 35 U.S.C. §103(a) over Hishiyama (JP 1-305231), Morii (JP 64-38524), Ikeda (JP 62-297634), Nitta (JP 55-110835) or Yoshikawa (JP 4-148115), alone or in combination. Since claims 5, 10-12, 17, 22-24, and 29 depend, directly or indirectly, from amended claims 1, 13 and 25, respectively, claims 5, 10-12, 17, 22-24, and 29 are submitted to be patentable under 35 U.S.C. §103(a) over

Hishiyama (JP 1-305231), Morii (JP 64-38524), Ikeda (JP 62-297634), Nitta (JP 55-110835) or Yoshikawa (JP 4-148115), alone or in combination, for at least the reasons that amended claims 1, 13 and 25 are submitted to be patentable under 35 U.S.C. §103(a) over Hishiyama (JP 1-305231), Morii (JP 64-38524), Ikeda (JP 62-297634), Nitta (JP 55-110835) or Yoshikawa (JP 4-148115), alone or in combination.

Also, there is no teaching or suggestion of combining any of Hishiyama (JP 1-305231), Morii (JP 64-38524), Ikeda (JP 62-297634), Nitta (JP 55-110835) or Yoshikawa (JP 4-148115). It is respectfully submitted that the courts have held that the Examiner may not suggest modifying references using the present invention as a template absent a suggestion of the desirability of the modification in the prior art. *In re Fitch*, 23 U.S.P.Q.2d 1780, Fed Cir. 1992. Something in the prior art as a whole must suggest the desirability, and thus, the obviousness, of making the combination. *Alco Standard Corp. v. Tennessee Valley Authority*, 808 F. 2d 1490, 1 U.S.P.Q. 2d 1337 (Fed. Cir. 1986). When a rejection depends on a combination of prior art references, there must be some teaching, suggestion or motivation to combine the references. *In re Geiger*, 815 F.2d 686, 688 2 U.S.P.Q.2d 1276, 1278 (Fed. Cir. 1987). Thus, since there is no teaching or suggestion of combining any of Hishiyama (JP 1-305231), Morii (JP 64-38524), Ikeda (JP 62-297634), Nitta (JP 55-110835) or Yoshikawa (JP 4-148115) in any combination, it is respectfully submitted that claims 1-4, 6-9, 13-16, 18-21, 25-28 and 30 are patentable under 35 U.S.C. §103(a) over Hishiyama (JP 1-305231), Morii (JP 64-38524), Ikeda (JP 62-297634), Nitta (JP 55-110835) or Yoshikawa (JP 4-148115), alone or in combination.

CONCLUSION:

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot, and further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,
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